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AUTHOR	Doyle, Denis P.
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ABSTRACT

The need for an appropriate governance structure of the National Assessment of Educational Progress (NAEP) and a governance proposal are discussed. NAEP provides time series data on student achievement within certain academic areas by age and geographic region. Its main purpose is informational, rather than diagnostic. Several objectives are recommended to insulate NAEP's governance from undue federal control. These include freedom from transient political influence, incorporation of provisions to insure continuity and institutional memory, and a reflection of the needs of NAEP's clients. These criteria would permit federal funding, while controlling federal temptation to use NAEP as a tool of federal interests. The structure of a governing board is described which would be composed of local, state, and federal policymakers. NAEP should also establish a standing technical advisory board composed of recognized authorities in the field to assure the highest levels of technical competence. The governance structure as described would provide reasonable assurance of relevance and high quality. (DWH)

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PAYING THE PIPER: FEDERAL FUNDS AND STATE INTERESTS
A PROPOSAL FOR GOVERNING NAEP

A commissioned paper by

Denis P. Doyle

Resident Fellow in Education
and Director of Education Policy Studies,
the American Enterprise Institute*

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PAYING THE PIPER: FEDERAL FUNDS AND STATE INTERESTS

A PROPOSAL FOR GOVERNING NAEP

This commissioned paper deals with the following topic:

> What governance structure (i.e., relationships between the federal government and the grantee) is there which will allow (a) NAEP to deal analytically and evaluatively with contemporary education issues and (b) minimize the chances that NAEP becomes a federal tool leading to the development of federal standards, curricula and tests?

> I call therefore a complete and generous education that which fits a man to perform justly, skillfully and magnanimously all the offices both private and public of peace and war.
>
> John Milton 1608 - 1674

Introduction

Governance structures are instrumental, designed to serve public policy objectives. They have no independent purpose and are not themselves an end; indeed, they are the means to secure the ends which government sets itself. A governance structure for NAEP is no exception to this general rule.

The rule, of course, is subject to history: governance structures are created in a political context. Governance structures that were appropriate for one context may not be appropriate for another. Similarly, governance structures may be misconceived in the first instance, and be inconsistent with the policy objectives of the framers.

The opportunity presented by this assignment, however, is to approach the question of the appropriate governance of NAEP de novo: what should be

the governance structure for NAEP in the 80s and beyond?

Background

Even when the question of how NAEP should be governed is approached prospectively, the mission of NAEP must be understood in an historical as well as contemporary context. Its purposes emerge organically from past experience as well as future needs. Because of this, it is useful to briefly re-examine some historical and political dimensions of NAEP.

NAEP, as presently constituted, provides a carefully constructed and well managed measurement of the nation's education "temperature." Taken at regular intervals, it provides time series data on student achievement within certain disciplinary areas by age and geographic region. It also permits some finer-grained comparisons: test scores by such background characteristics as ethnicity, parental education, socio-economic status, and the like. The analogy most frequently used to describe NAEP is a national education "thermometer."

This benign description, however, obscures the fact that from NAEP's inception the idea of a national assessment has been controversial. It is politically charged and unpopular with much of the education establishment. Historically, teacher associations and other established interest groups have been afraid that assessments that utilize test scores would be used to unfairly and improperly rate schools and their teachers. State education officials were afraid that state-by-state assessments would be used to draw invidious comparisons among states. At the level of individual states, many educators were concerned that invidious intradistrict comparisons would be drawn from state level assessments. And District Superintendents and their staffs were frequently reluctant to have districtwide assessments that would permit comparisons among schools.

In light of this, it is not surprising that preliminary national assessments were tentative and cautious, and studiously eschewed either data collection or data presentation that would permit comparisons other than those of the most general kind. More than ten years later, in structure and purpose, the National Assessment remains much as it was in its formative years.

The reporting of National Assessment findings reflects the organization and management of the National Assessment. Although fully funded by the federal government, the National Assessment is run by the Education Commission of the States. This arrangement serves more than convenience; it reflects the tension inherent in the federal role in education. The federal government is at once the senior partner in terms of intergovernmental relations, and the junior partner in terms of education funding and responsibility.

The "thermometer" analogy frequently used in discussions of NAEP is useful because it helps explain the cautious nature of federal involvement. NAEP's purpose has been informational, not diagnostic or self-consciously prescriptive. Good news is reassuring, bad news is crying in the wind. The nation's education temperature is taken but no remedy is offered. To foreign observers the situation is anomolous, even inexplicable. In countries with national ministries of education, national examinations are not simply revelatory or even diagnostic: they are used to prescribe and justify ministerial intervention. If the news is bad, remedial action occurs. The national curriculum is tightened; regional or local administrators have their cages rattled; teachers are upbraided; national textbooks are reviewed; the national syllabus is re-examined. In such countries, national examinations are tied to national purposes, which are made manifest through a national education system. Indeed, America is virtually alone: a nation with national education "interests," "purposes," even "goals," but no national government orchestrating or directing the achievement of these goals.

It is precisely the spectre of national examinations as the implement of a national system of education that alarms Americans across the political spectrum. The liturgy of local control, of no federal "interference," is echoed across the nation, in schools public and private, large and small, north and south.

The situation grows organically from our federal system. It is not a product of legislative, judicial and executive checks and balances. Rather, it is a consequence of the division of responsibility for education between levels of government. Tension between levels of government exists precisely because it was built in by the founders: it is deliberate, an organic part of our federal system, embodied in the constitution. Article 10 of the Bill of Rights, the reserve powers clause, deliberately delegates to the states those powers not the province of the national government. Among those are education. Further cementing the state role are the several state constitutions, which in some detail explicitly describe and define the responsibility of the state to provide education.

The role of the national government then, is gratuitous. Because of the commerce clause of the Constitution, the federal government <u>may</u> fund education, but such funding differs qualitatively from state or local support. That is, federal funding is conditional: the federal government cannot mandate compliance with education statutes except as a condition of accepting federal funds States, however, can and do exact compliance without reference to funding. The apparent exception to this rule is PL 94-142 (aid to handicapped students) which requires compliance even without federal funds. But compliance is required because PL 94-142 is cross referenced to civil rights language which is constitutionally protected.

The federal role in education, then, is ambiguous because the federal government responsibility for education is ambiguous. Federal responsibilities are only indirectly related to education purposes. This is reflected in a sort of cultural "reciprocal": a long term national commitment to "local control" of education. Deeply embedded in the national experience, local control of education is virtually an idee fixe. The holding power of the idea is the more remarkable because much of it is myth. That is, local school districts are creatures of the state: their taxing authority, their legal capacity to organize and govern themselves, their curricular and pedagogical activities exist at the pleasure of the state. While many states delegate education responsibility, they may, if they wish, withdraw it.

The relationship of local school districts to states is totally different than the relationship of states to federal government. States are not agents of the federal government, but independent actors in their own right. They are the lynchpin of the nation's education system, and with the exception of civil rights issues, the federal government is able to exercise control and direction only as a condition of funding.

Funding, of course, can exert powerful leverage, particularly if it is narrowly targeted. Thus, although the federal share of education funding has never exceeded ten percent, its sharply focused quality has exerted a strong influence on state and local education authorities. Indeed, he who pays the piper has called the tune. But it is important to stress that this result--calling the tune--is not an inevitable outcome. Rather, it reflects political history and tradition. There are selected examples of one level of government raising money for another with only minimal conditions. Thus, in California, county governments both assess and collect property taxes--on the basis of state standards--for all taxing jurisdictions within their

boundaries (there are more than 8,000 independent taxing jurisdictions within California's 40 counties).

Similarly, NIE sponsored research, conducted by OECD/CERI, examined the school financing systems of ten industrialized nations. The findings were suprising but clear: centralized funding does not necessarily diminish local control.

While federal funding, then, does not necessarily limit local control (or state or institutional autonomy) in America it has had a strong propensity to do so. Accordingly, strong institutional and organization bulwarks are necessary to preserve local control. Similarly, a federally funded national assessment of education progress must be carefully designed if federal control and direction are to be minimized. The instrumentalities to limit federal control are relatively straightforward, but they must be harnessed to the purposes and goals of those levels of governments involved in the program. Before discussing these, however, it is important to return to the first principles implicit in the tension revealed by the national assessment effort itself. If there is genuine concern about federal control of a national assessment, for what reason or reasons should the federal government be involved at all? Is there a national purpose, and how should the national purpose be reconciled with state and local interest?

National purpose is revealed in public policy, the expression of values and preferences found in the Constitution, statutes, judicial rulings, regulations and budgetary decisions. Public policy decisions are reached not simply as a matter of factual or expert determination; in the final analysis public policy decisions are normative and political judgments about what best serves the public interest. In the case of the NAEP, the Congress and the Executive branch have repeatedly endorsed the idea: they are convinced that national measures of education progress are both appropriate and desirable. Indeed,

they have repeatedly appropriated funds to support such an assessment. And in any political system, money talks. Budget is policy.

The reason for federal funding, however, is more than federal interest: there is federal interest in a wide variety of programs, but not always federal funding. A National Assessment could not exist without federal funding because there is no organization in our society with the interest and resources to support it. No single state or group of states has the interest or the capacity to organize and fund a National Assessment. Nor does the private sector. There is a recognition that a National Assessment is worthwhile and that only the federal government has the resources and scope to support it.

By its nature, a national assessment is national in scope and purpose. The individual states which together comprise the nation express national interests through national forums. As states, their interest is as recipients of information, in the same way they are interested in Census Bureau data or BLS data. Indeed, the collective interests of states and localities are expressed through the federal government; how they preserve their integrity as states while pursuing national questions is the principal issue represented by the governance of NAEP.

Before describing a governance proposal, however, one final point deserves comment. For generations Americans have attempted to distinguish between political and non-political government activities, functions, and programs. On the one hand, there is no more "political" nation on earth and this is nowhere more true than in the field of education. In addition to fifty state boards of education, there are more than 16,000 locally selected school boards and committees. Moreover, state and local school superintendents serve at the pleasure of their boards and they are subject to intense partisan considerations. In no other industrialized nation do such circumstances exist.

In most countries, there is a highly centralized ministry of education, operated and staffed by an impregnable, career civil service: even in federal countries such as Germany, Australia and Canada, education is centralized at the lander, state or provincial level, and "local control" (at the building or district level) is virtually unknown.

But just as American education is the stuff of local and state politics, extensive efforts to insulate education from "politics" are a staple of American life. In numerous jurisdictions, election to education office is nonpartisan; similarly, appointments to education boards are frequently for fixed terms, with the various terms staggered; as well, state level gubernatorial appointments are frequently subject to legislative confirmation; and in many cases, once appointed, officials can only be removed for cause. The purposes served by these arrangements are several: continuity and "institutional memory" is achieved; the new and old "public" interest is represented, as new appointing officials have the opportunity, over time, to make new appointments; and a political balance is achieved by virtue of staggered terms. Indeed, for some appointed boards, statute or historic practice establishes a quota system: so many members of a political party must be appointed; so many "public members;" certain geographic or professional representation; and not least, representation by race, gender, and ethnicity. Taken together, the overarching purpose of such systems and arrangements is the protection and projection of the public interest.

The question about NAEP governance, then, is what is the public interest? The public interest in measuring national educational progress is first informational; second, diagnostic, and third, prescriptive. The first function is properly the province of the federal government, the second the province of the federal government and the states, the third the province of the states and local schools.

Information. The federal government has the financial resources and national perspective necessary to support a national assessment but has neither the responsibility nor capacity to control or mandate education operations at the local level.

Diagnosis. Diagnostic activity, in both medicine and education, is the necessary precursor to treatment. Analytically and operationally, however, it is distinct from prescription. It is a necessary but not sufficient precondition for intervention. Because of its scale and scope, much education diagnostic work can properly be performed by or supported by the federal government: it is the logical and appropriate follow-up to data gathering. Indeed, it is the essence of research and development, an activity which is itself well suited to federal support. Like national data collection, much R & D is national in scope and implication, but is not reasonably supported at the state or local level. As well, federal R & D can and should be collaborative rather than interventionist. Research that "works" does not require federal edict or mandates to implement; local providers have the necessary incentives to utilize R & D findings, so long as they have access to information.

Prescription. Once information is available, and competently analyzed, intervention is possible. In the American system of education, the appropriate intervenor is that level of government responsible for providing the service: states, and their agents, local school boards.

In light of the preceding narrative, what is the appropriate federal role, and what governance structure should be designed and adopted to

allow NAEP to (a) "deal analytically and evaluatively with contemporary education issues and (b) to minimize the chances that NAEP becomes a federal tool leading to the development of federal standards, curricula and tests?" Because question "a" is essentially technical and "b" a policy question, they are treated in reverse order in the concluding narrative.

Phrasing the issue as "NAEP becoming a federal tool" is at best unsatisfactory: the language is either disingenuous or cynical. Indeed, at one level NAEP must be a federal tool: it must serve federal purposes. The real issue is what kind of tool should it be and how should it be employed? As I have tried to suggest, the federal interest is informational; but there is no inherent conflict between federal and state information needs. If anything, the federal guidance of NAEP has been unduly cautious. The "tool" is so blunt and used with such circumspection that its utility is severely limited. What is one to make of time series data by age and region? Not much. To pursue the medical analogy, NAEP's virtue is its vice; it is neither more nor less than an education "thermometer:" what is called for today are more sophisticated tools of education measurement; an educational sphygmomanometer or EEG would be most welcome. But even if the federal government had such tools at its disposal, the question of diagnosis and treatment would remain. A feedback loop between elements should be institutionalized: information is not collected at random. Data gathering is purposeful. The measurement of education progress should serve both educators and educated. But ironically, the fear of federal control limits the utility of NAEP.

It is ironic because America's commitment to local control is so deeply ingrained that the question of federal standards, curricula and tests is virtually rhetorical: so few people support the idea of federal standards

that it is difficult to find articulate spokesmen on its behalf. 1/

Nevertheless, it is remotely possible that the danger of federal standards will materialize in the future: as hard as it may be to take seriously, such a scenario suggests that prompt and decisive action today will foreclose the possibility of future federal movement in that direction. The solution is structural, an approach that is well established in the American tradition. A written constitution, which deliberately incorporates checks and balances, is the implicit model for the governance of countless public activities. NAEP is no exception. The issues can be stated directly. To insulate NAEP's governance from undue federal control three objectives should be specified:

- NAEP should be free from transient political influence (although it should be subject to long term changes in public policy),
- The governance of NAEP should incorporate provisions to insure continuity and "institutional" memory,
- NAEP's governance should reflect the needs of its various clients (not to be confused with interest groups or constituencies).

These simple criteria permit resolution of the paradox of federal funding while controlling any federal temptation to use NAEP as a tool of federal interests. They suggest the following:

- A fifteen member governing board composed of NAEP's natural clients should be established. NAEP's natural clients are state governments, local education authorities, and the federal government, in that order.

1/ Opposition to nationally set standards is so widespread and so deep that it is genuinely difficult to find defenders of the idea. For a more complete treatment of this issue, see "Educational Standards: A Perspective," (Chapter six, pp 73-80) in Denis P. Doyle, Debating National Education Policy: The Question of Standards, The American Enterprise Institute, Washington, D.C., June, 1981.

Members of the governing board should include state Governors, or their agents, state legislators, local school officials, and representatives of the Executive branch. Membership should be balanced to reflect the primary interests of state government, the secondary interests of local education officials and the tertiary interests of the federal government.

- A balanced governing board might include four Governors, four state legislators, four local education officials, and three federal executive branch officers.

- State and local officials should be selected with some decent consideration for the interests of the geographic region, gender, age, ethnicity, previous condition of servitude and other factors that warm the cockles of the hearts of appointing officials, but such considerations should not be placed in statute.

- The twelve state and local members should serve staggered four year terms, removable only for cause.

- In addition, the voting members representing the federal government should serve by virtue of their federal positions: the Director of the Bureau of the Census, and the Secretary of Labor, for example, would serve on the NAEP governing board so long as they held their federal positions.

Members of Congress are not included because they are prohibited from exercising both legislative and executive functions; their absence on the Governing Board is a serious loss. A partial remedy could be a statute which directs each house to name a non-voting member ex-officio on the Governing Board.

Similarly, the Secretary of Education could not serve as a voting member because of potential conflict of interest. (If the Department of Education funds NAEP, the Secretary will of necessity sign off on NAEP's budget, approve the procurement, approve the award, etc., ad nauseum. The Secretary of Education should sit as an ex-officio (non-voting) member of NAEP's governing board.

The creation of a governing board composed of local, state, and federal policymakers is a deliberate strategy designed to accomplish four objectives:

- It will assure NAEP's responsiveness to the needs of the policymakers who will either use or not use its products,
- It will institutionalize state and local control over NAEP insofar as the state and local super-majority (12 of 15 members) have shared interests,
- It will assure federal participation and communication (3 voting and several non-voting members) without compromising state and local interests,
- It will remove NAEP from the direct control of special interest groups, such as teacher or administrator associations.

The last point deserves some amplification. Special interest groups have a legitimate and proper role in attempting to influence NAEP, from broad questions of national purpose to narrow questions of technical design. But they have no appropriate role in the direct governance of NAEP. NAEP should serve broad national goals, not the narrow and parochial goals of special interest groups. The NAEP governing board should receive testimony, comment, suggestions and recommendations from special interest groups, but should not be a united front for them. Special interest groups should make their case before the NAEP governing board, not comprise it. In fact, in the 1980s at least, special interest group domination is a greater danger than federal control.

Although the language of the commission for this essay was silent on the implementation of NAEP, no governing board can accomplish even minimal objectives without a competent and reliable staff. No legislature, court, or administrative group can extend its reach and scope beyond that of its staff. Without competent staff, NAEP's governing board would be a general staff without armies.

In an ideal, rational world, this would not be a problem. That is, the nation's chief executive or his agent, the Secretary of Education, would--with the advice and consent of the Senate--select a governing board for staggered four-year terms and provide such a governing board with the resources to meet its statutory and moral obligations. It is at the coordinating conjunction "and" that the system begins to get shaky. The Secretary must arrange for the funding of NAEP to be provided under the terms of a competitive award." The reader must be forgiven if the image of the moon-bound astronaut leaps to mind, "riding 400,000 pounds of thrust on top of 5,000 moving parts, each one of which went to the lowest bidder..." The several millions of federal dollars that it takes to run NAEP each year must go to someone (more properly, "something," a non-profit corporation or some facsimile). To what, then, does the President or Secretary appoint the governing board? The successful competitive bidder? Or does the competitive bidder make the appointment? Unfortunately, the interior logic of federal grants and contracts administration suggests that the latter alternative is the most workable.

Be that as it may, the federal interest is better served by the federal government making the appointments. To do so will require some inventive language in the grant or contract of record. But no less should be expected of a nation that can place men on the moon but can't get trained physicists and mathematicians to teach in its public high schools.

Finally, this essay turns to item "a," a governance structure that "will allow NAEP to deal analytically and evaluatively with contemporary education issues." This activity falls into two discrete parts. First, the identification of the issues with which NAEP is expected to deal is the responsibility of the governing board; indeed, the governing board will have no more important responsibility. Second, there are a set of technical and

expert issues about the proper analytic treatment of issues that presumably lie beyond the collective capacity of the governing board. The governing board is not likely to be comprised of statisticians, psychometricians, and survey research experts. To assure the highest levels of technical competence, NAEP should also empanel a standing technical advisory board make up of recognized authorities in the field.

Conclusion. Taken together, these recommendations provide an organizational structure which protects NAEP from undue federal influence, builds bridges to NAEP's natural clients and supporters, assures policy relevance and technical quality, and insulates NAEP from self-interested constituency groups.

As well, a governance structure of this kind provides NAEP with continuity, an institutional memory, and insulates it from the vagaries of transient politics. At the same time it provides reasonable assurances of relevance and high quality. Over time, such a governing board could even direct NAEP to undertake activities that have genuine utility.